

Appl. No. 10/608,470
Docket No. E2079-00032
Reply to Office Action of March 10, 2005

REMARKS/ARGUMENTS

As a result of this Amendment, claims 1-7 and 10-47 are under active consideration in the subject patent application.

In the Official Action, the Examiner has:

- (1) indicated that the application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213;
- (2) objected to the claim of priority;
- (3) stated that the Information Disclosure Statement allegedly fails to comply with 37 CFR §1.98(a)(2) in connection with the non-patent literature publications and those publication have not been considered;
- (4) objected to claims 3-5 and 8-10 for informalities related to lack of antecedent basis and required correction;
- (5) identified claims 1, 2, 6, 7, and 11-47 as presenting subject matter that is allowable over all of the prior art of record in the case; and
- (6) stated that claims 3-5 and 10 would be allowable if rewritten or amended to overcome objections stated in this Official Action.

With regard to Items 1-2, Applicants acknowledge that the application is in condition for allowance except for formal matters, and that prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*.

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Applicants have replaced the claim of priority in the specification with a new claim of priority. The new claim of priority confirms that the subject application is a Continuation-in-Part of U.S. Application Serial No. 10/339,807, filed on January 10, 2003, now issued as U.S. Patent No. 6,765,668, and removes the claim of priority to U.S. Provisional Patent application 60/347,806, filed January 10, 2002. Applicant's original claim of priority to U.S. Application Serial No. 10/339,807, filed on January 10, 2003, was made at the time of filing of the application. That claim of priority was only defective with regard to designation of the application as a Continuation-in-Part application and reference to U.S. Provisional Patent application 60/347,806. Both of those defects have now been corrected. Accordingly, Applicants respectfully submit that the foregoing change to the priority claim of the instant application is all that is required to bring the claim of priority into conformance with the rules. Also, a Petition to accept an unintentionally delayed priority claim is not necessary since a claim of priority to at least copending U.S. Application Serial No. 10/339,807, filed on January 10, 2003, had been made at the time of filing. Reconsideration and withdrawal of the objection to the claim of priority are requested.

Applicants have amended claims 3-5 and 10 by changing the word "microorganism" to the plural form - - mircroorganisms - -. As acknowledged by the Examiner, claims 3-5 and 10 would be allowable if rewritten to overcome the objections to the informalities identified above. Claims 8 and 9 have been cancelled as suggested by the Examiner. Also, Applicants have amended claim

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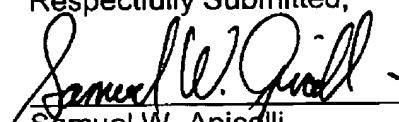
to correct an inadvertent typographical error on line 8, to delete the word "filed" and insert the word - -field- -. No new matter has been added as a result of this change. Reconsideration and withdrawal of the Examiner's objections are requested.

Applicants respectfully request that a timely Notice of Allowance be issued in this case.

If a telephone conference would be of assistance in advancing prosecution of the above-identified application, Applicants' undersigned Attorney invites the Examiner to telephone him at 717-237-5516.

Date: 5/6/05

Respectfully Submitted,



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